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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR      | ATTORNEY DOCKET NO.           | CONFIRMATION NO. |
|---|-------------|---------------------------|-------------------------------|------------------|
| 10/777,866  | 02/11/2004  | Marc O'Donnell Schweitzer | 008834                        | 6117             |
| 61285   | 7590        | 11/29/2006                | USA/CPS/IBSS/LAP              |                  |
| JANAH & ASSOCIATES, P.C.<br>650 DELANCEY STREET, SUITE 106<br>SAN FRANCISCO, CA 94107 |             |                           | EXAMINER<br>CHAUDHRY, SAEED T |                  |
|   |             |                           | ART UNIT                      | PAPER NUMBER     |
|   |             |                           | 1746                          |                  |

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|   |                                      |  |  |
|---|--------------------------------------|--|--|
| <b>Advisory Action</b><br><b>Before the Filing of an Appeal Brief</b> | <b>Application No.</b><br>10/777,866 | <b>Applicant(s)</b><br>SCHWEITZER ET AL. |  |
|   | <b>Examiner</b><br>Saeed T. Chaudhry | <b>Art Unit</b><br>1746                  |  |

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 13 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: 1,2 and 6-11.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_
13. ☐ Other: \_\_\_\_\_.

  
**MICHAEL BARR**  
**SUPERVISORY PATENT EXAMINER**

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Attachment to advisory action:

The applicant argued that the combination of Sasaki et al and Barton et al do not establish a prima facie case of obviousness because Barton et al fail to make up for the deficiencies of Suzuki et al as Barton et al is on-analogous art and it is not obvious to combine Sasaki et al with Barton et al because there is no reasonable expectation of success in doing so. Whether Barton et al is analogous art depends first on whether the art with respect to Barton et al invention is in the same field of endeavor as the invention in the present application.

This argument is unpersuasive because both Sasaki et al and Barton et al concerned in removing organic material from surfaces. Therefore, both the references are in the same field of endeavor such as removing organic material from the surfaces. The applicant's claimed process is cleaning a surface of a chamber, which is equivalent to removing material from the surface for cleaning. Therefore, one of ordinary skill in the art would have reasonable expectations that the processes of Barton et al and Sasaki et al would clean the surface of a chamber since Sasaki et al remove material from the surfaces of a semiconductor device fabricating machine.

The applicant argued that there is no suggestion or motivation to show desirability to make this combination of Sasaki et al and Barton et al to establish a prima facie case of obviousness, there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art.

This argument is not persuasive because for a finding of obviousness within the meaning of 103, the references themselves need not explicitly suggest the combination of their features where all the references pertain to the same field of endeavor, i.e. removing organic matter from the surface. The test is what the combined teachings of the references, taken collectively would

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have suggested to one of ordinary skill in the art (see Cable elec. Prods., Inc. V. Genmark, Inc., 770 F.2d 1015, 1025, 226 USPQ 881, 886-87 (Fed. Cir. 1985 and In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981)). Both the references remove organic matter from the surface by treating with liquid nitrogen for embrittle the material. Therefore, reasonably pertinent to the particular problem of removing material from the surface.

Applicant's arguments filed November 13, 2006 have been fully considered but they are not persuasive.

*Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saeed T. Chaudhry whose telephone number is (571) 272-1298. The examiner can normally be reached on Monday-Friday from 9:30 A.M. to 4:00 P.M.*

*If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Michael Barr, can be reached on (571)-272-1414. The fax phone number for non-final is (703)-872-9306.*

*When filing a FAX in Gp 1700, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communication with the PTO that are for entry into the file of the application. This will expedite processing of your papers.*

*Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-1700.*

*Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).*

**Saeed T. Chaudhry**  
*Patent Examiner*